RECEIVED IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA 2005 JUL -6 A 8: 12 EASTERN DIVISION

E. PAUL JONES,	
Plaintiff,	
v.)	Civil Action No. 3:05 CV628-7
MBNA AMERICA, a Delaware Corporation a/k/a MBNA Consumer) Services, Inc.,	
Defendant.)	

ANSWER

Defendant MBNA America, the true and correct name of which is MBNA America Bank, N.A., answers the complaint as follows:

- 1. The claims asserted by plaintiff in this action are subject to arbitration and this action is due to be stayed pending arbitration.
- 2. Defendant denies the material allegations of the complaint, except that it admits and avers that plaintiff is a resident of Alabama, that it is a national bank located in the State of Delaware, that plaintiff has an account with defendant which was opened in 1993, that the account has been accessed by certain checks which defendant mailed to plaintiff, and that plaintiff has contended that he is not responsible for certain checks drawn on the account which he contends were forged by his secretary, and defendant is without

knowledge or information sufficient to form a belief as to the truth of the allegations concerning the actions of plaintiff's secretary. Defendant contests the relief sought.

- 3. The complaint fails to state a claim upon which relief can be granted.
- 4. Plaintiff's claims are barred or limited by his own negligence.
- 5. Plaintiff's claims are barred or limited by the applicable provisions of the Uniform Commercial Code, including without limitation by the provisions of Sections 3-405, 3-406, and 4-406.
- 6. Plaintiff by his actions is estopped to assert any claims against defendant.
 - 7. Plaintiff has waived any claim against defendant.
 - 8. Plaintiff has failed to provide required notices.
 - 9. Plaintiff's claims are barred by the statute of limitations.

COUNTERCLAIM

1. Defendant reserves the right to assert any claims that it may have against plaintiff in arbitration.

George R. Parker (PAR086)

BRADLEY ARANT ROSE & WHITE LLP

The Alabama Center for Commerce

401 Adams Avenue, Suite 780

Montgomery, AL 36104

Telephone: (334) 956-7700 Facsimile: (334) 956-7701

- and -

Andrew J. Noble III (NOB001)
BRADLEY ARANT ROSE & WHITE LLP
P.O. Box 830709

Grorp RPL

Birmingham, AL 35283-0709 Telephone: (205) 521-8000 Facsimile: (205) 521-8800

Attorneys for the Defendant

JURY DEMAND

Reserving the right to insist upon arbitration, defendant demands a jury trial with respect to any matters that may be determined not to be subject to arbitration.

George RPJ

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Answer on E. Paul Jones, P. O. Box 448, Alexander City, AL 35011 by depositing a copy of same in the U.S. Mail properly addressed and postage prepaid on this, the ______day of July, 2005.

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